



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE**  
**ANALYSIS AND DECISION OF THE DIRECTOR OF**  
**THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2308211  
**Applicant Name :** Tim James Rhodes, for The Neighborhood Company  
**Address of Proposal:** 4338 SW Southern St

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for future construction of a single family residence with detached garage.

The following approval is required:

Variance - To allow a portion of the principal structure to extend into the required side yard (Seattle Municipal Code Section 23.44.014.C). *Requirement: The side yard shall be 10 feet - Proposed: 5 feet on the street side (reversed corner lot).*

**SEPA DETERMINATION:** ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction.

**BACKGROUND DATA**

**Subject Site and Vicinity**

The subject property is zoned Single Family-5000 (SF-5000) and is a trapezoid-shaped corner lot bounded by SW Southern Street on the South and 44<sup>th</sup> Avenue SW to the west. The subject property is bordered on the north and the east by properties which are zoned Single Family 5000 (SF-5000); the general vicinity is developed predominately with one and two story, single family residences.

The legal description of the property is lot 6, block 8, Adams First Addition to the Fauntleroy Park, with a nonexclusive easement for ingress, egress and maintenance over the east ten (10) feet of lots 4 for the benefit of lots 5,6 and 7. The lot is approximately 130 feet deep, approximately 55 feet wide along the eastern property line and tapering in a northwesterly direction along SW Southern Street to a western property line of approximately 22 feet. The total lot area is approximately 5,033 square feet.

#### Proposal Description

The proposed project includes construction of a new two-story residence with detached garage. The applicant is requesting a variance to reduce the side yard on a reverse corner lot to (5) five feet. Code requirements for the street side yard on SW Southern Street is (10) feet for a reverse corner lot.

#### Public Comment

Three largely identical comment letters, containing a total of 14 signatures, were received during the comment period, which ended on July 10, 2002. The comments, which generally misunderstood the application as a variance to allow the proposed structure to extend into the public right-of-way, were in opposition of the proposal. The comments otherwise expressed concerns over traffic safety, slope stability and parking.

#### Additional Information

Lot 6, together with lots 4 and 5, all legally platted vacant lots, was until recently owned in common with lot 7 which was developed with a single family residence. The lot is owned by The Neighborhood Company which was formed in 2001 by a group who wanted to preserve the original house and at least a portion of the adjoining garden while developing the three platted vacant lots with single family residences. The formation of the company was prompted by the sale of the house and land and a desire to preserve the historic significance of the site and house where Mary and Lloyd Anderson had lived and in whose house REI, a venerable Seattle Co-op had been founded in 1938. While allowing for individual ownership of the three new and one historic house, the proposed development is intended to preserve and provide a “garden commons” accessible to each of the individual homes. Another intention was to maintain, as much as possible within the constraints of the intended development, existing trees and vegetation.

#### **ANALYSIS - VARIANCE**

Variances from the provisions or requirements of the Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

1. *Because of unusual conditions applicable to the subject property including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The subject property is unusual in shape and size, tapering to 22 feet in width at the western property line. Portions of the subject lot on both its west and south sides are classified as environmentally critical areas and characterized by slopes in excess of 40% and potential for slides. As it is on a reverse corner lot, a ten foot street side yard is required for the south property line. Without a variance, to reduce the street side yard to (5) five feet, the buildable area of the lot would be significantly reduced. The retention of existing, significant trees on the eastern third of the subject property (cedars at 10, 11, and 16 caliper inches) would require the construction of a single-family residence toward the western, less generous portion of the lot. The clearing of the trees could be permitted, but this would be especially undesirable since they are located in a designated ECA-steep slope and landside prone area and their removal could threaten the stability of this slope. Plans proposed for development on the site with only a five-foot side yard would not require the cutting of any significant trees.

The predominant pattern of yards fronting the two adjacent streets (44<sup>th</sup> Avenue S.W. and S.W. Southern Street) is one of shallow front yards or front yards occupied by garage structures. Five of the six adjacent residences on 44<sup>th</sup> Avenue S.W. have shallow front yards. Garages with decks above cover significant portions of the front yards of two of the three closest adjacent residences to the east on S.W. Southern Street (residences at 4322 and 4318 Southwest Southern Street).

The seeming purpose of a ten-foot side yard requirement for a reverse corner lot is to leave a side yard more commensurate with the front yard of the lot which abuts the rear yard of the reversed corner lot (and, presumably, other front yards along the same block face that the ten-foot side yard addresses). The granting of this variance will result in a five-foot side yard bordered by an unusually wide green space in the right-of-way. The perceived side yard resulting from a side yard variance in this instance will retain a green space equal to, or, in the majority of cases, greater than the front yards of the adjacent lots.

2. *The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

The applicant is requesting only the *reduction* of the south side yard setback required for reverse corner lots from 10 feet to 5 feet, not the elimination of a side yard altogether.

The applicant is proposing a new single family residence which meets all other zoning requirements for the S.F. 5000 zone including front, rear, and north side yard setbacks, overall height, lot coverage, parking, etc.

The five-foot side yard requested by this variance application is consistent with the southern side yard that is part of the only other reverse-corner lot on this block of S.W. Southern Street, the side yard located at the northwest corner of S.W. Southern Street and California Avenue Southwest.

The applicant is requesting a five (5) foot side yard on the street side and this does not seem inconsistent with the limitations upon other properties in the vicinity and zone because the code only requires the side yard to be (10) ten feet because the property is considered a reverse corner lot. If this were not a reverse corner lot, the side yard requirement would only be five feet and it does not appear that the

requested variance goes beyond the minimum necessary to afford relief and does not constitute a grant of special privilege.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

No detriment to the public welfare or injury to the property or improvements in the zone or vicinity is likely to occur by granting the requested variances. For several reasons the subject property is significantly separate from the adjacent properties. The properties to the east (on S.W. Southern Street) are separated from the subject property by an existing drive and access easement. The properties to the west (on 44<sup>th</sup> Avenue S.W.) are significantly below the subject property and separated by both a steeply sloping hill and by 44<sup>th</sup> Avenue S.W. The narrowed side yard resulting from this variance fronts two residential lots across S.W. Southern Street but these lots are significantly higher in elevation and therefore well above this property.

The large “green space” along the southern side yard adjoining S.W. Southern Street creates a green buffer from the property across S.W. Southern Street. The remaining green buffer along S.W. Southern Street will be twenty-five to thirty-five feet wide (greater than a standard front yard and significantly greater than the majority of front yards on adjacent properties on SW Southern Street and 44<sup>th</sup> Avenue Southwest) will be. This large green space proposed to remain to the south of the subject property will be an effective “buffer” for the properties across S.W. Southern Street.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;*

The proposed subject property is a platted lot and is zoned to have a single-family residence built on it. The residence that the applicant is proposing meets all other zoning parameters for the lot. The irregular shape of the lot results from the angle of S.W. Southern Street, a public right-of-way adjacent to the subject property. The difficulty in constructing a viable a residence with a small footprint makes the designation of “reverse-corner” and the resulting 10-foot street side yard requirement is a hardship for the development of the subject property.

A review of the subject property and surrounding properties, showing the footprints of the proposed and adjacent residences, indicates that the proposed house is relatively small by comparison. In fact the proposed residence has a smaller footprint than any of the neighboring houses.

A further reduction of the footprint of this residence by requiring a ten-foot side yard either forces the residence east on the lot with the resulting destruction of significant existing trees or restricts this house to a footprint that makes a residence economically unviable to build. Practical difficulties exist in creating a viable floor plan if the residence is further reduced in width by the application of a ten-foot side yard setback. A ten-foot side yard setback reduces buildable width on the subject property to just 12.44 feet at the western edge of the buildable area left on this lot.

The literal interpretation and the strict application of the applicable 10’-0” side yard setback would cause undue hardship and practical difficulties for the development of this residential lot.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The purpose of the Land Use Code is to protect and promote public health, safety and the general welfare through a set of regulations and procedures for the use of land which conforms to the City's land use policies. It is the responsibility of the City to preserve and protect areas that are currently in predominantly single-family residential use. The construction as proposed is in character with the patterns of surrounding development and preserves the existing neighborhood character. The developers' aims to expand housing opportunities while preserving the historicity of this particular place and retaining mature landscape on site is laudable. Traffic and other impacts are relatively minimal and consistent with infill development within established single-family neighborhoods. No adverse effects on adjacent properties in the area are anticipated and the public interest will not suffer as a result of this variance.

### **DECISION - VARIANCE**

The request for a variance to allow a portion of a principal structure to extend into the required side yard (Seattle Municipal Code Section 23.44.014.C) is **APPROVED**.

Signature: (signature on file) Date: May 20, 2004  
Michael Dorcy, Land Use Planner  
Land Use Services  
Department of Planning and Development